

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

The Department of Transportation of the State of Illinois,
for and in behalf of the People of the State of Illinois,

Petitioner,

vs.

T05-0047

BNSF Railway Company, f/k/a Burlington Northern
Santa Fe Railway Company,

Respondent.

Petition for approval of the taking or damaging of certain
properties in McDonough County, Illinois by exercising
the right of eminent domain. Parcel No. 409U026PE

PETITIONER'S MOTION FOR LEAVE TO FILE
AMENDED PETITION FOR APPROVAL TO TAKE PROPERTY

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF
ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L.
MORRIS, Special Assistant Attorney General, and for its Motion for Leave to File an
Amended Petition for Approval to Take Property, states:

1. This motion is filed pursuant to Section 200.140 of the Rules of Practice of the
Illinois Commerce Commission.
2. On August 15, 2005, the Petitioner filed its Petition for Approval to Take
Property and inadvertently represented that FAP Route 315 was a "non-freeway" route. In
fact, FAP Route 315 has been designated as a freeway.

DOCKETED

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3. Granting Petitioner's Motion for Leave to File an Amended Petition will not prejudice the rights of any party.

4. A copy of the Amended Petition for Approval to Take Property which Petitioner seeks to file is attached hereto as Exhibit "A" and fully incorporated by this reference.

WHEREFORE, Petitioner prays that its motion be granted.

THE DEPARTMENT OF TRANSPORTATION,
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By: 

Stanley L. Morris

Special Assistant Attorney General

Stanley L. Morris
Special Assistant Attorney General
205 South Fifth Street, Suite 900
Springfield, IL 62701
Telephone: (217) 753-1133

PROOF OF SERVICE

The undersigned certifies that on August 24, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

Burlington Northern & Santa Fe Railway Company
c/o Stanbach Company
Attn: Yvonne Worsham
3017 Lou Menk Drive, Suite 100
Ft. Worth, TX 76131

BNSF Railway Company,
f/k/a Burlington Northern Santa Fe Railway Company
c/o Michael Szdanoff, Registered Agent
Kenneth J. Wysoglad & Associates
118 South Clinton Street, Suite 700
Chicago, IL 60661



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the right of eminent domain. Parcel No. 409U026PE

AMENDED PETITION FOR APPROVAL TO TAKE PROPERTY

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF
ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L.
MORRIS, Special Assistant Attorney General, having received leave to file and for its
Amended Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FAP
Route 315 (Ill. Route 336), a State highway under the control and jurisdiction of Petitioner,
in McDonough County, Illinois, under and by virtue of the Illinois Highway Code (605 ILCS
5/2-101 through 5/2-220 and 5/4-101 through 5/4-511). The lands and premises hereinafter
described and legally described as set out in Exhibit "A" attached hereto and incorporated
by this reference, are required for Petitioner's construction of FAP Route 315, Section 55-2,
McDonough County, Illinois (hereafter the "Project").

2. Respondent, BNSF RAILWAY COMPANY, f/k/a BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY ("BNSF"), is a rail carrier as defined in the Illinois Commercial Transportation Law (625 ILCS 5/18c-7101 et seq.), is engaged as a common carrier by railroad within Illinois and is subject to the jurisdiction of the Illinois Commerce Commission.

3. The land, rights, and other property hereinafter described are private property and the Respondent appears to own, have an interest in, or claim to have some interest therein.

4. The Project is a public work, is for public use and constitutes a public purpose, in McDonough County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a permanent easement in Parcel No. 409U026PE, more particularly described in Exhibit "A" attached hereto. Said parcel is located along U.S. Route 136 approximately 3/4 mile west of Tennessee, Illinois.

5. Pursuant to Article VIII of the Illinois Highway Code (605 ILCS 5/8-10125/8-109), Petitioner did on September 4, 2004, designate and establish FAP Route 315 (Illinois Route 336) beginning at the intersection of U.S. Route 136 and East 225th Street approximately 1-1/2 miles west of Tennessee, Illinois, and extending easterly and northerly to a point on U.S. Route 136 approximately 1-3/4 miles west of Macomb, Illinois, as a freeway and recorded said designation on August 23, 2005; the parcel herein described abut upon and are adjacent to said FAP Route 315 so declared to be a freeway.

6. The compensation to be paid by the Petitioner to the Respondent for these parcels or the interest therein or the form of conveyance cannot be agreed upon between the

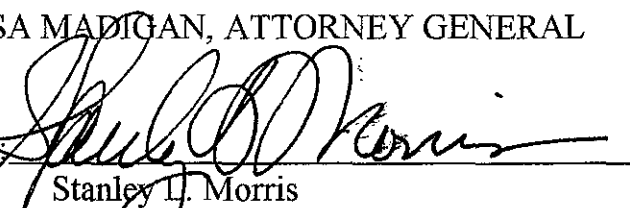
Petitioner and the Respondent and the Petitioner, therefore, is authorized, subject to the initial approval of the Illinois Commerce Commission, to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the Eminent Domain Laws of Illinois.

WHEREFORE, Petitioner prays the Illinois Commerce Commission enter an Order authorizing Petitioner to proceed with an action in eminent domain to acquire from Respondent, BNSF, a permanent easement in Parcel No. 409U026PE more particularly described in attached Exhibit "A" in accordance with Article VII (735 ILCS 5/7-101 through 5/7-129) of the Illinois Code of Civil Procedure.

THE DEPARTMENT OF TRANSPORTATION,
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By

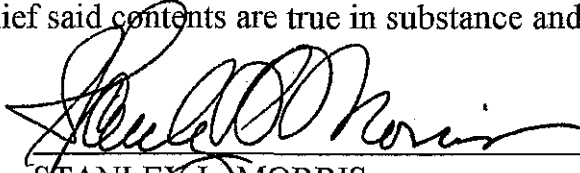


Stanley L. Morris
Special Assistant Attorney General

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205 South Fifth Street, Suite 900
Springfield, IL 62701
Telephone: (217) 753-1133

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Amended Petition by me subscribed, have knowledge of the contents thereof and that on information and belief said contents are true in substance and in fact.

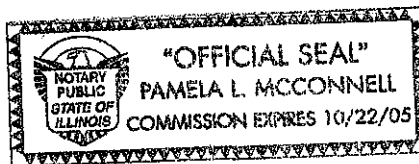


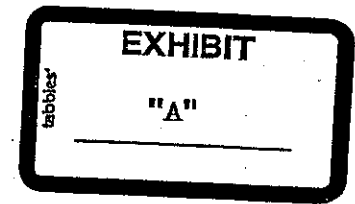
STANLEY L. MORRIS
Special Assistant Attorney General

Subscribed and sworn to before me, a Notary Public, this 24th day of August, 2005.



Notary Public





A part of the Southeast Quarter of Section 4, Township 5 North, Range 3 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Commencing at the southeast corner of the Southeast Quarter of said Section 4; thence North 0 degrees 46 minutes 59 seconds East along the east line of the said Southeast Quarter, 1,355.92 feet to the southerly right-of-way line of the Burlington Northern and Santa Fe Railroad; thence South 72 degrees 32 minutes 14 seconds West along said southerly right-of-way line, 585.39 feet to the Point of Beginning, said point being 494.50 feet normally distant easterly from the proposed centerline of FAP Route 315; thence South 72 degrees 32 minutes 14 seconds West along said southerly right-of-way line, 1,147.01 feet to a point being 601.68 feet normally distant westerly from said centerline; thence North 17 degrees 27 minutes 46 seconds West, 100.00 feet to the northerly right-of-way line of said Burlington Northern and Santa Fe Railroad, said point being 632.68 feet normally distant westerly from said centerline; thence North 72 degrees 32 minutes 14 seconds East along said northerly right-of-way line, 1,147.01 feet to a point being 467.70 feet normally distant easterly from said centerline; thence South 17 degrees 27 minutes 46 seconds East, 100.00 feet to the Point of Beginning, containing 114,701 square feet, or 2.633 acres, more or less.

409U026PER1

PROOF OF SERVICE

The undersigned certifies that on August _____, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

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c/o Stanbach Company
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Ft. Worth, TX 76131

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